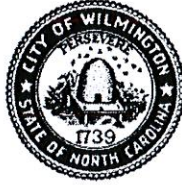


# Ordinance



City Council  
City of Wilmington  
North Carolina

**Introduced By:** Sterling B. Cheatham, City Manager

**Date:** 8/20/2013

**Ordinance Amending the Land Development Code Chapter 18, Article 6, Division II, Sec. 18-340. Temporary Uses and Article 15, Sec. 18-812 Definitions to establish standards and a definition for mobile food units (LDC-10-513)**

## **LEGISLATIVE INTENT/PURPOSE:**

WHEREAS, NCGS Section 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code; and

WHEREAS, the amendment set out below is intended to promote the public health, safety, and welfare by amending the Land Development Code to establish standards and a definition for mobile food units.

## **THEREFORE, BE IT ORDAINED:**

SECTION 1: Chapter 18, Article 6, Division II, Sec. 18-340 (b) of the Wilmington City Code is hereby amended to add the following:

(14) Mobile food unit.

SECTION 2: Chapter 18, Article 6, Division II, Sec. 18-340 (c) (7) of the Wilmington City Code is hereby amended to read as follows:

The following additional conditions or requirements shall apply for each permitted temporary use:

## **ADDITIONAL REQUIREMENTS FOR TEMPORARY USES**

CERTIFIED TO BE A TRUE COPY.  
CITY CLERK  
*Theresa Spivey Sidbury*

| Use  | Maximum Allowed Time Duration Per Each Separate Use or Event Per Site | Permitted Districts  |
|--|---|--|
| Circuses or carnivals  | 14 days   | Nonresidential districts, with the exception of CB and AI districts, and specific locations as set forth in Sec. 18-252 (c)(8)c 1 and 2. |
| Evangelistic and religious related congregations                       | 14 days   | All nonresidential districts, except the AI districts  |
| Outdoor bazaars  | 3 days  | All districts (see note)   |
| Open lot sales for:  |   |  |
| Agricultural related products  | 60 days   | All districts set forth in this section  |
| Christmas tree sales   | 45 days   | All commercial districts (see note)  |
| Special fund raising sales for nonprofit organizations                 | 3 days  | All districts (see note)   |
| Contractor's office or mobile office for displaced-during construction | During construction period only                                       | All districts  |

|   |  |  |
|---|--|--|
| Temporary housing manufactured housing                      | Eighteen (18) months unless authorized longer by Council resolution                          | Within a designated redevelopment area or a disaster area                                |
| Temporary real estate office                                | Five (5) years or until eighty (80) percent of subdivision lots are sold, whichever is first | All residential districts  |
| Fairs or other special recreational or entertainment events | One (1) day except fourteen (14) days for annual events                                      | Commercial or industrial districts and specific locations as set forth in this section   |
| Special sales or temporary "flea" markets                   | 7 consecutive days or 2 consecutive weekends (Friday--Sunday)                                | Commercial or industrial districts (see note at end of this table)                       |
| Temporary City satellite service office                     | Twelve (12) months unless authorized longer by council resolution                            | All districts  |
| Wireless telecommunication towers                           | 90 days  | All nonresidential districts and property in residential districts by special use permit |
| Mobile food unit  | 5 consecutive hours per day in the CBD   | All nonresidential districts   |

SECTION 3: Chapter 18, Article 6, Division II, Sec. 18-340 (c) (8) of the Wilmington City Code is hereby amended to add the following:

- i. Mobile food unit.
- i. All mobile food unit operators shall obtain an annual permit from the City Manager, unless otherwise exempted in this chapter. Permits shall be issued for the period beginning September 1 and ending August 31 of each year. This permit shall be posted in a visible location on the mobile food unit.
- ii. Mobile food unit operators shall have the signed approval of the property owner for each location at which the mobile food unit operates. This approval must be made available for inspection upon request.
- iii. Within the Central Business District mobile food units are subject to the following:
  - a. Mobile food units are limited to a maximum of five (5) consecutive hours at a single location.
  - b. No more than one (1) mobile food unit shall operate on an individual site per day.
  - c. No mobile food unit shall operate on more than two (2) individual sites per day.
- iv. The hours of operation for all mobile food units shall be limited to 6:00 AM to 3:00 AM.
- v. Mobile food units shall not be located within seventy-five (75) feet of the main entrance of the nearest restaurant during the restaurant's posted hours of operation. This distance may be reduced to twenty-five (25) feet for food carts less than five (5) feet in length.
- vi. Mobile food units shall be located no less than five (5) feet from any fire hydrant, sidewalks, utility boxes, handicap ramps and building entrances. The required sidewalk setback does not apply to food carts less than five (5) feet in length.
- vii. Mobile food unit operators are responsible for the proper disposal of waste and trash associated with the operation. City trash receptacles shall not be used for this purpose. Operators shall remove all waste and trash prior to leaving each location or as needed to maintain the health and safety of the public.
- viii. All associated equipment, including trash receptacles and signage, must be within three (3) feet of the mobile food unit.

- ix. No fire lanes, vehicular access ways, or pedestrian walkways may be obstructed or encroached upon by the mobile food unit.
- x. No amplified microphones or bullhorns shall be permitted as part of the mobile food unit operation.
- xi. Mobile food units shall not occupy parking spaces required to fulfill the minimum requirements of the principal use, unless the hours of operation of the principal use do not coincide with those of the mobile food unit.
- xii. Mobile food units must comply with Chapter 4, Article III of the Wilmington City Code, which states that no business shall take place on publicly owned or leased property.

SECTION 4. Chapter 18, Article 15, Sec. 18-812 of the Wilmington City Code is hereby amended to add the following, in alphabetical order:

Mobile food unit - A self-contained vehicle that serves prepared food in various locations.

SECTION 5. That any person violating the provisions of this ordinance shall be subject to the penalties set forth in Article XIV, Section 18-52 of the Land Development Code.

SECTION 6: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 7: That if any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 8: That this ordinance shall be effective immediately upon its adoption.

Adopted at a regular meeting  
on August 20, 2013

ATTEST:

Penelope Spicer-Sidbury  
Penelope Spicer-Sidbury, City Clerk



Bill Saffo  
Bill Saffo, Mayor

APPROVED AS TO FORM:

Stephen E. Becker  
City Attorney